

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

BENJAMIN KARL RAY BUNTON,

Plaintiff,

v.

CITY OF MENDOTA POLICE CHIEF, et al.,

Defendants.

Case No. 1:23-cv-00211-SAB

ORDER GRANTING APPLICATION TO
PROCEED *IN FORMA PAUPERIS*

ORDER DIRECTING PAYMENT OF
INMATE FILING FEE BY MONTANA
STATE PRISON

(ECF No. 6)

Plaintiff Benjamin Karl Ray Bunton (“Plaintiff”), currently incarcerated at the Montana State Prison in Deer Lodge, Montana and proceeding *pro se*, filed this civil rights action pursuant to 42 U.S.C. § 1983. (ECF No. 1.) Plaintiff did not pay the filing fee in this action and instead filed an application to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915. (ECF No. 2.) The Court, however, noted certain deficiencies in Plaintiff’s application and denied the application on February 15, 2023, without prejudice to refile. (ECF No. 4.) Currently before the Court is Plaintiff’s renewed motion to proceed *in forma pauperis*, with explanatory pages to address the deficiencies noted in the Court’s prior order. (ECF No. 6.) The Court finds Plaintiff has made the showing required by § 1915(a) and accordingly, the request to proceed *in forma pauperis* will be granted. Plaintiff is obligated to pay the statutory filing fee of \$350.00 for this action. 28 U.S.C. § 1915(b)(1). Plaintiff is obligated to make monthly payments in the amount of twenty percent of the preceding month’s income credited to plaintiff’s trust account. Montana State Prison is

1 required to send to the Clerk of the Court payments from Plaintiff's account each time the amount
2 in the account exceeds \$10.00, until the statutory filing fee is paid in full. 28 U.S.C. § 1915(b)(2).
3 Notwithstanding this order, the Court does not direct that service be undertaken until the Court
4 screens the complaint in due course and issues its screening order.

5 Accordingly, IT IS HEREBY ORDERED that:

- 6 1. Plaintiff's application to proceed *in forma pauperis* (ECF No. 6) is GRANTED;
- 7 2. **The Warden of Montana State Prison or his/her designee shall collect**
8 **payments from Plaintiff's prison trust account in an amount equal to twenty**
9 **percent (20%) of the preceding month's income credited to the prisoner's trust**
10 **account and shall forward those payments to the Clerk of the Court each time**
11 **the amount in the account exceeds \$10.00, in accordance with 28 U.S.C. §**
12 **1915(b)(2), until a total of \$350.00 has been collected and forwarded to the**
13 **Clerk of the Court. The payments shall be clearly identified by the name and**
14 **number assigned to this action;**
- 15 3. The Clerk of the Court is DIRECTED to serve a copy of this order and a copy of
16 Plaintiff's *in forma pauperis* application on the Warden of Montana State Prison,
17 at Montana State Prison, 700 Conley Lake Road, Deer Lodge, MT 59722, and via
18 the Court's electronic case filing system (CM/ECF), if possible;
- 19 4. The Clerk of the Court is DIRECTED to serve a copy of this order on the Financial
20 Department, U.S. District Court, Eastern District of California; and
- 21 5. Within **sixty (60) days** of the date of service of this order, Plaintiff shall submit a
22 certified copy of his prison trust account statement for the six-month period
23 immediately preceding the filing of the complaint, if Plaintiff has not already done
24 so.

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6. Service shall not be undertaken until the Court screens the complaint in due course and issues its screening order.

IT IS SO ORDERED.

Dated: March 2, 2023

A handwritten signature in blue ink, appearing to read "Eugene A. Bae", is written over a horizontal line.

UNITED STATES MAGISTRATE JUDGE